

**JAW LEGAL**

Jared A. Washkowitz (7653)  
1050 Bishop Street #450  
Honolulu, HI 96813  
Telephone: (808) 840-7410  
Facsimile: (415) 520-9729  
Email: [jwash@jawlegal.com](mailto:jwash@jawlegal.com)

Attorney for Plaintiffs  
DAVID DEMAREST and  
GREEN MOUNTAIN MYCOSYSTEMS LLC

IN THE UNITED STATES DISTRICT COURT  
DISTRICT OF HAWAII

DAVID DEMAREST and GREEN  
MOUNTAIN MYCOSYSTEMS LLC,

Plaintiffs,

vs.

RAIED J. ALFOUADI; UNNAMED  
SAILING VESSEL in rem, Hull No.  
HA 6874 H; DOE DEFENDANTS 1-  
20, DOE CORPORATIONS, 1-20,  
DOE GOVERNMENT AGENCIES 1-  
20, DOE PARTNERSHIPS 1-20,

Defendants.

Case No.: 22-CV-00064 JAO KJM

**PLAINTIFFS DAVID  
DEMARESET AND GREEN  
MOUNTAIN MYCOSYSTEMS  
LLC's OBJECTIONS AND  
COUNTER-DESIGNATIONS TO  
DEFENDANT RAIED J.  
ALFOUADI'S DESIGNATION  
OF THE DEPOSITION OF  
JEFFREY PRATT TAKEN ON  
MARCH 14, 2024; EXHIBIT "A"**

Judge: Hon. Jill A. Otake

Trial Date: August 19, 2024

**PLAINTIFFS DAVID DEMARESET AND GREEN MOUNTAIN  
MYCOSYSTEMS LLC's OBJECTIONS AND COUNTER-  
DESIGNATIONSTO DEFENDANT RAIED J. ALFOUADI'S**

**DESIGNATION OF THE DEPOSITION OF JEFFREY PRATT TAKEN ON  
MARCH 14, 2024**

Plaintiffs DAVID DEMAREST and GREEN MOUNTAIN MYCOSYSTEMS LLC (herein “Plaintiffs”) by and through their undersigned counsel and pursuant to the applicable Federal Rules of Civil Procedure, Local Rules, and Third Amended Scheduling Order hereby file their Objections and Counter-Designations to Defendants’ Designation of the Deposition Excerpts of Jeffrey Pratt taken on March 14, 2024 as follows:

Plaintiffs object to the use of the deposition transcript of Mr. Pratt at trial other than for impeachment based on Fed.R.Civ.P. 32, which states that all of the following conditions must be met:

(A) the party was present or represented at the taking of the deposition or had reasonable notice of it;

(B) it is used to the extent it would be admissible under the Federal Rules of Evidence if the deponent were present and testifying; and

(C) the use is allowed by Rule 32(a)(2) through (8).

See Fed.R.Civ.P. 32(a)(1).

The uses allowed under Rule 32(a)(2) through (8) include using the deposition for impeachment, or if the deposition is of a party or a 30(b)(6) designee of a party, or

if the witness is unavailable, which is defined as if the witness is dead, more than 100 miles from the place of trial, unable to testify due to age, infirmity, illness or imprisonment, or if the witness's attendance could not be compelled by subpoena. See Fed.R.Civ.P. 32(a)(4).

Here, the deposition transcript of Mr. Pratt can only be used for impeachment because Mr. Pratt is not a party, and because Defendant has not established that he is unavailable per Rule 32(a)(4). Therefore Plaintiffs object to all of Defendant's designated excerpts and to the use of any portion of Mr. Pratt's deposition transcript at trial other than for impeachment purposes.

In an abundance of caution, and to the extent the Court is inclined to allow the use of Mr. Pratt's deposition transcript over Plaintiffs' objection, Plaintiffs object to the following excerpts.

- p.. 48, 6:9- lack of foundation

In an abundance of caution, and to the extent the Court is inclined to allow the use of Mr. Pratt's deposition transcript over Plaintiffs' objection, Plaintiffs identify the following counter-designations, which are attached hereto as Exhibit "A".

- p. 62:14-25
- p. 63:1-25
- p. 64:1-25

- p. 65:1-10; 17-25
- p. 66:1-25
- p. 67:1-25
- p: 68:1-3; 8-16
- p. 69:22-25
- p. 70:1-25
- p:71:1-11
- p72:3-23
- p:73:21-24
- Exhibit H

DATED: Honolulu, Hawaii August 5, 2024

/s/Jared A. Washkowitz  
JARED A. WASHKOWITZ  
Attorneys for Plaintiffs  
DAVID DEMAREST and GREEN MOUNTAIN  
MYCOSYSTEMS LLC

# EXHIBIT A

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

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DAVID DEMAREST and GREEN ) Case No.  
MOUNTAIN MYCOSYSTEMS, LLC, ) 22-CV-00064-JAO-KJM  
(In Admiralty)

Plaintiffs,

vs.

RAIED J. ALFOUADI; UNNAMED )  
SAILING VESSEL in rem Huyl )  
No. HA 6874 H; DOE )  
DEFENDANTS 1-20; DOE )  
CORPORATIONS 1-20; DOE )  
GOVERNMENT AGENCIES 1-20; )  
DOE PARTNERSHIPS 1-20, )

Defendants.

VIDEO CONFERENCE DEPOSITION OF

JEFFREY PRATT

Taken remotely by the court reporter with Zoom Video Conferencing, on behalf of Defendant Raied J. Alfouadi, the deponent appearing from Ralph Rosenberg Court Reporters, Inc., Maui Conference Room, 2233 West Vineyard Street, Suite A, Wailuku, Hawaii 96793, commencing at 1:00 p.m. on March 14, 2024 pursuant to Notice.

Before: WILLIAM T. BARTON, RPR, CSR NO. 391

1 APPEARANCES:

2 For Plaintiffs  
3 David Demarest and  
4 Green Mountain Mycosystems, LLC  
5 JARED A. WASHKOWITZ, ESQ.  
6 (appearing by video conference)  
1050 Bishop Street, Suite 450  
Honolulu, Hawaii 96813  
(808) 840-7410  
jw102475@gmail.com

7 For Defendant  
8 Raied J. Alfouadi  
9 JAMES V. MYHRE, ESQ.  
10 Myhre & Storm, AAL, ALC  
11 1003 Bishop Street, Suite 1290  
12 Honolulu, HI 96813  
13 (808) 524-2466  
14 jmyhre@mtmhawaiiilaw.com  
15  
16  
17  
18  
19  
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21  
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23  
24  
25

1 Q. What's that?

2 A. Not in the very beginning, no.

3 Q. I recall, and correct me if I'm wrong, but I  
4 think you testified he brought it up towards the end  
5 of the whole operation that's when you first heard  
6 the word salvage. Is that what you said?

7 A. Probably something like that, yeah.

8 Q. And then you also said that you weren't, you  
9 don't consider yourself having done any work for  
10 Mr. Demarest or his company, correct?

11 A. I didn't even know he had companies. I  
12 mean, as far as I know he doesn't even work, you  
13 know.

14 Q. I'm going to share the screen with you. One  
15 second. Let's see if I can do this.

16 (Screensharing a document.)

17 (Whereupon, a Text messages screenshot was  
18 marked as Plaintiff's Exhibit 1 for  
19 Identification.)

20 Q. Can you see my screenshare right here?

21 A. Yes.

22 Q. Yes? Can you see that?

23 A. Yeah.

24 Q. And first question and I am going to attach  
25 this as an exhibit. It will be Plaintiff's



1 Exhibit 1.

2 And I can send the court reporter a copy of  
3 this after the depo. I'll send it by email. You as  
4 well, Jim.

5 First of all, whose number is (415)810-8346?

6 A. Me.

7 Q. You see this date, January 4, 2022?

8 A. Yes.

9 Q. Is this a communication between you and  
10 Mr. Demarest?

11 A. I don't know. I'm going to read it and see.  
12 Dust extraction. He was a nut for that stuff.

13 Q. I'm sorry, say that again?

14 A. He was a nut for dust extraction. You're  
15 cutting up a boat on the rocks. It was pretty  
16 funny --

17 Q. For right now my question is, this is a text  
18 exchange between yourself and Mr. Demarest, correct?

19 A. Yes. That's what it looks like.

20 Q. And do you dispute that this text exchange  
21 occurred January 4, 2022?

22 A. That's what it says right there.

23 Q. In this part right here, I don't know if you  
24 can see my cursor where I'm highlighting?

25 A. I can see that. "Jeffrey C. Pratt. Thanks

1 for giving me the opportunity to help salvage this  
2 boat with you. Thanks Jeff."

3 Q. Is that --

4 A. What the hell does that mean?

5 Q. Well, that's what I'm asking you. Did you  
6 send that text?

7 A. It looks like it on your screen. But I  
8 don't remember sending that text. It doesn't make  
9 any sense. Good afternoon, gentlemen we are out on  
10 the pier about 15 minutes ago and the keel is  
11 definitely -- I don't know. I don't remember any of  
12 that.

13 Q. But you see where it says this text  
14 starts --

15 A. I see that. I don't understand that.

16 Q. This is your number, right 415 --

17 A. Yes.

18 Q. It looks --

19 A. Why would I write something that doesn't  
20 make any sentence, "Jeffrey C. Pratt. Thanks for  
21 giving me the opportunity to help salvage this boat  
22 with you. Thanks Jeff."

23 What the heck does that mean?

24 MR. MYHRE: I'm going to object to the  
25 question as it's assuming who wrote that.

1 Q. Let me ask you this. Are you denying that  
2 you wrote this text, Mr. Pratt?

3 A. I'm not going to deny anything. But I'm not  
4 going to go along with necessarily either. That  
5 doesn't make any sense. I would never write  
6 something like that.

7 Q. Why not? What part of it would you not  
8 write?

9 A. Why would somebody write, Jeffrey C. Pratt  
10 thanks for giving me the opportunity to help salvage  
11 this boat with you. Thanks Jeff? I don't get it.

12 MR. MYHRE: A fair reading -- object to the  
13 question as being vague and ambiguous. The document  
14 speaks for itself. And any fair reading of that  
15 would indicate that that's not this witness who is  
16 saying that. But go ahead.

17 A. The bottom of the boat without the keel?  
18 "Keel is definitely on the bottom without the boat.  
19 Thanks Jeff."

20 I don't know. I wouldn't have written stuff  
21 like that.

22 Q. Are you denying that you wrote these two  
23 text messages?

24 A. Here. Let me look. I'm going to look on my  
25 own phone. I haven't texted David in fricken a long

1 time. Let's see.

2 Q. Okay.

3 (Pause.)

4 A. What was the date on that? January 4th. He  
5 writes way too much.

6 MR. WASHKOWITZ: I move to strike any  
7 nonresponsive portion of the answer.

8 Q. Mr. Pratt, I know you're checking your text  
9 right now. Can you just check your phone and let me  
10 know if you sent a text on January 4, 2022?

11 A. I'm working on it. I'm back to January.

12 Q. Keep in mind the court reporter has to write  
13 down everything we say. So all the side commentary I  
14 am going to move to strike just so it's not on the  
15 transcript. Nothing personal.

16 A. I see the same thing on my phone as on your  
17 screen. Doesn't make any sense at all.

18 Q. So my next question is, you earlier  
19 testified that you didn't hear the word salvage until  
20 towards the end of the operation. But would you  
21 agree that January 4, 2022 that was the second day of  
22 the salvage wasn't it?

23 MR. MYHRE: Objection. Misstates the  
24 evidence.

25 A. It's the third day.

1 Q. It was the third day, okay. So January 4th  
2 was the third day of the salvage, correct?

3 A. Yes.

4 Q. And I think you had also -- can you guys  
5 still see that same screen?

6 A. I can see the same screen.

7 Q. Okay. I'm going to get back to it. Hold on  
8 one second.

9 (Pause.)

10 Q. So this text also says, I'm just going to  
11 read it, it says, "Thanks for giving me the  
12 opportunity to help salvage this boat with you."

13 But you testified earlier?

14 A. I must have been doing that when he was  
15 saying the things he was going after the insurance  
16 company or something.

17 Q. Right. But you said earlier that in your  
18 mind you didn't work for Mr. Demarest or his company.

19 A. I never did work for him.

20 Q. We have a text here that says, "Thanks for  
21 giving me the opportunity to help salvage this boat  
22 with you."

23 In your mind, does that indicate that  
24 Mr. Demarest asked if you could help with the boat  
25 and you specifically helped salvage?

1           A.    No, I was just saying I was working with him  
2 to salvage the boat. It had nothing to do with the  
3 company or compensation or nothing.

4           MR. MYHRE: I'm also going to object to the  
5 question as it's taking what's stated there out of  
6 context as to who is saying what.

7           (Screensharing ended.)

8           Q.    And you don't deny, Mr. Pratt, that you did  
9 work on the vessel per Exhibit H, which is your  
10 estimate of the time you spent with this operation,  
11 correct?

12          A.    Yes. We, everybody was just getting the  
13 boat out of the water. Called salvage. Had nothing  
14 to do with the company. Had nothing to do with  
15 anything. That's just what it is. You're removing a  
16 vessel from the water. It's called salvage.

17          MR. WASHKOWITZ: I'm going to, this is for  
18 the record, just for the record, Mr. Pratt. You  
19 don't have to respond to this.

20                I'm going to move to strike the testimony  
21 regarding what constitutes a salvage and what  
22 doesn't.

23          Q.    Okay. There were some questions asked  
24 earlier about the interrogatory responses. And  
25 specifically counsel asked, read off the

1 interrogatory response where Mr. Demarest said that  
2 Mr. Alfouadi and Jeff Pratt came to Lahaina Welding  
3 and asked Mr. Demarest to come quickly because Mr.  
4 Alfouadi's vessel was aground.

5 And if you remember you said that's not how  
6 you remember it, correct? You don't remember  
7 going --

8 A. Yes.

9 Q. Sorry, go ahead.

10 A. No. I don't remember going with Raied to go  
11 and talk to Dave or get David involved.

12 Q. What is your recollection of how Dave came  
13 to be involved?

14 A. Oh, I'm sure we were going back and forth  
15 getting ropes and doing whatever we could get to get  
16 the boat on. I'll sure Dave was asking what's going  
17 on. Everybody knows everybody in there.

18 Q. When you say back and forth to get ropes,  
19 going back and forth between the shop at Lahaina  
20 Welding?

21 A. Yes. Yes.

22 Q. You observed Mr. Demarest working on the  
23 operation as well, right, while you were there?

24 A. Yes.

25 Q. Going back to Exhibit H. You had listed all

1 the times and dates to, you know, to the best of your  
2 recollection that you helped out with this operation.

3 A. Uh-huh (affirmative).

4 Q. Do you recall on any of those times and  
5 dates Mr. Demarest not being there?

6 A. Like I said, I don't think he was there on  
7 the first day. It was in the afternoon if I recall.  
8 Exactly 2:45 p.m. I don't remember him being there  
9 on the first day. It was just me and Raied, and then  
10 my family.

11 Like I said, we were all in the water and,  
12 you know, trying to grab all the debris we could  
13 grab. Like it says for the second day, beach cleanup  
14 and boat. That's probably when Dave was started to  
15 show up. But I don't recall definitely on the first  
16 day.

17 Q. And then the question regarding removal of  
18 the mast from the vessel.

19 Is your testimony that Mr. Demarest did not  
20 help with that?

21 A. He might have helped on the second day with  
22 part of it and carrying it down the thing. But we  
23 got my grinder, we cut it up, the cables were still  
24 attached. There was going to be, you know, we were  
25 looking for bolt cutters to cut the cables because



1 they're stainless steel cables.

2 It was just keep things from banging around.

3 I don't remember Dave being there for that  
4 personally, no.

5 Q. And you never witnessed Mr. Alfouadi telling  
6 Mr. Demarest to stand down and to not help with the  
7 operation, correct?

8 A. No. No. Everybody was just pitching in,  
9 helping out. Doing whatever we needed or could do.  
10 It's like a slow train wreck when a boat comes  
11 aground.

12 Q. Right. What about -- you good?

13 A. Yeah, I just got a cramp in my leg.

14 Q. You need a break?

15 A. No. I'll just walk on it for a second. I'm  
16 fine, I can hear you.

17 Q. Do you have any knowledge as to what exactly  
18 was saved as far as from the vessel goes? Was any  
19 part of it actually saved from the water?

20 A. There wasn't much to be saved. I cut up, I  
21 had the portholes. Just that I used them as art on  
22 my wall in my house, put pictures in them, you know.  
23 They were all patinaed, all nice and green and  
24 oceany. And I salvaged the steering wheel off the  
25 boat.

1           That's all gone now. It all burned up in  
2 the fire. But nothing would be good I don't think.

3           Q. Do you know if Mr. Alfouadi's boat was on a  
4 mooring when it broke loose, or was it anchored?

5           A. It was on a mooring supposedly that I know  
6 of.

7           Q. How do you know that?

8           A. Because I bought his mooring. I bought  
9 Raied's and Raied put his on another one that he had.  
10 That's what I was told. It wasn't as sufficient as  
11 the mooring, mine is two great big concrete blocks  
12 chained together and composite mooring.

13           And Raied was, supposedly at that time he  
14 was going to be leaving that's why he was selling the  
15 mooring. He was going to get in his sailboat, that's  
16 why he had all this stuff in the sailboat. Turns out  
17 probably too much stuff in the sailboat.

18           But because the amount of debris that came  
19 out of that thing. But he was going to sail to Oahu  
20 or something, I guess, and be gone. And within a few  
21 weeks big storm came in out of the west that day.  
22 And that solved that problem because his boat broke  
23 off and that was it.

24           Q. How certain are you that his boat was moored  
25 as opposed to anchored? Is that something you

1 witness or you heard someone told you?

2 A. You would have to -- that's just my  
3 recollection. Because that -- they were talking, he  
4 was talking at some point about that it was just, it  
5 was a smaller block.

6 So my recollection, I don't know for sure I  
7 never dived it. I never stopped, got on his vessel,  
8 so I really have no idea. I bought his, the really  
9 good mooring that he had, you know, prior to, prior  
10 to the incident. This thing was only a few weeks  
11 prior. Then his boat came ashore.

12 Q. Okay. And then is it true that during this  
13 operation you and Mr. Demarest were exchanging text  
14 messages during this whole process, correct?

15 A. He's a text messenger. He texts so much.  
16 You can tell. If you look at his texting between me  
17 and him they are freaking 500 words long, all of this  
18 crazy crap in there. Yeah.

19 MR. WASHKOWITZ: I'm going to move to strike  
20 that response.

21 Q. I'm just going to ask you. Is it true, yes  
22 or no, that you guys texted during this operation? I  
23 think the answer is yes, right?

24 A. Yes.

25 Q. Okay.

C E R T I F I C A T E

I, WILLIAM T. BARTON, Certified Shorthand Reporter, do hereby certify:

That on March 14, 2024 at 1:00 p.m. there appeared before me JEFFREY PRATT, the deponent whose deposition is contained herein; that prior to being examined was first by me duly sworn;

That the deposition was taken down by me in machine shorthand and was thereafter reduced to typewriting; that the foregoing represents, to the best of my ability, a true and correct transcript of the deposition in the foregoing matter.

That pursuant to Rule 30(e) of the Hawaii Rules of Civil Procedure, a request for an opportunity to review and make changes to this transcript:

\_\_\_\_\_ Was made by the deponent or a party (and/or their attorney) prior to the completion of the deposition.

\_\_\_\_\_ Was not made by the deponent or a party (and/or their attorney) prior to the completion of the deposition.

  X   Was waived.

I further certify that I am not an attorney for any of the parties hereto, nor in any way concerned with the outcome of the cause named in the caption.

Dated this 19th day of March 2024 in Honolulu, Hawaii.



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WILLIAM T. BARTON, CSR No. 391  
Certified Shorthand Reporter

Jeffrey C Pratt

Boat Salvage

Mala ramp January 2022

- 1-2-2022 2:45 PM to 7 PM First clean up boat & Beach - Mast down,  
1-3-2022 5:15 AM to 9:30 AM Beach clean up & Boat  
1-4-2022 7:30 AM to 4 PM Winched boat off Mala Wharf & secured,  
1-5-2022 8 AM to 1:30 PM removed 1 out Board & Debris removal,  
-6-2022 8 AM to 1:30 PM snorkle Debris removed & small Fiberglass,  
-10-2022 8 AM to 11 AM removal small debris.

31 hrs

**Exhibit H**  
**3/14/24**  
**Jeff Pratt**

H